

REMARKS/ARGUMENTS

In the prior Amendment, Applicants provided the Examiner with copies of Patent Assignment Abstract of Title for the related parent applications and issued patents for this case (as shown in the first paragraph of the application). The submitted documents omitted the Patent Assignment Abstract of Title for U.S. Serial No. 08/730,661, and to correct this oversight, this Supplemental Amendment is being filed for consideration by the Examiner. This document when considered with those previously supplied are believed to verify that the patents and applications along with Applicants' application are presently owned by NanoProducts Corporation and have been owned throughout their lives. Nanomaterials Research Corporation was restructured to form NanoEnergy Corporation, which then changed its name to NanoProducts Corporation. One of the patents listed in the first paragraph of the application has third party ownership interests recorded against it, but these are believed to have been filed due to an administrative error of the third parties and corrective steps are being taken by Applicants.

Prior to this Amendment, claims 1-60 were pending in the Application. Claims 10-14, 25-29, 47, and 48 are cancelled. After entry of the Amendment, claims 1-9, 15-24, 30-46, and 49-60 remain for consideration by the Examiner.

Additionally, Applicants request that the Examiner consider the remarks provided below regarding the rejection of the pending claims.

Claim Rejections Under 35 U.S.C. §103

In the December 22, 2005 Office Action, the Examiner maintained the rejection of claims 11-13, 26-28, and 56-58 under 35 U.S.C. §103(a) as being unpatentable over U.S. Pat. No. 5,788,738 with inventors Pirzada and Yadav ("Pirzada"). This rejection is traversed based on the following remarks.

Pirzada is being cited against these claims via 35 U.S.C. §102(e). According to 35 U.S.C. §103(c)(1) subject matter which "qualifies as prior art only under one or more subsections (e), (f), and (g) of section 102 of this title, shall not preclude patentability under this section where the subject matter and the claimed invention were, at the time the claimed invention was made, owned by the same person or subject to an obligation of assignment to the same

person.”

As required by this statute, Applicants state that the present application and U.S. Pat. No. 5,788,738 (“Pirzada”) were, at the time the invention of this application was made, owned by the same company. See, also, MPEP 706.02(l)(2), which states such a statement is sufficient evidence of such co-ownership.

Applicants believe this addresses the rejections of claims 11-13, 26-28, and 56-58. Additionally, these claims are believed allowable as depending from base claims that are in condition for allowance for the reasons provided below.

Claim Rejections Under 35 U.S.C. §102

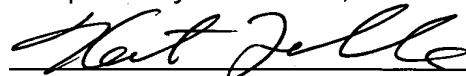
Also, in the December 22, 2005 Office Action, the Examiner maintained the rejection of claims 1-10, 14-25, 29-55, 59 and 60 under 35 U.S.C. §102(e) as being anticipated by Pirzada. Attached to this Supplemental Amendment is a declaration under 37 CFR 1.132 stating that the portions of Pirzada relied upon by the Examiner in rejecting claims 1-10, 14-25, 29-55, 59, and 60 are the invention of T. Yadav. As a result, in accordance with MPEP 715.01, the Pirzada reference is overcome. Also, please see *In re DeBaun*, 214 USPQ 933 (1982), which held an affidavit from an inventor that he was the sole inventor of a portion of a patent being cited against a later application was sufficient to overcome the reference. Hence, it is requested that Pirzada be removed as a reference, and the rejections of these claims be withdrawn.

Conclusion

It is requested that a timely Notice of Allowance be issued in this case.

2/15/06

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Attachments